

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re:  
**286 RIDER AVE ACQUISITION LLC,**  
Debtor.

Chapter 11  
Case No. 21-11298-LGB

**ORDER GRANTING ALLOWANCE  
OF ATTORNEY'S FEES AND EXPENSES**

Upon consideration of the *Time and Expense Records Be-Aviv 286 Rider LLC's ("Lender") as Directed by Court Order Dated April 7, 2022 ("Time Records")* [Docket No. 412], reflecting the fees and expenses of Lender's attorneys compensable under, *inter alia*, the Loan Documents<sup>1</sup> for the period from February 11, 2022 through April 5, 2022; and

WHEREAS, notice of the hearing on the Time Records having been given to all creditors as required by the applicable Federal Rules of Bankruptcy Procedure and proof of service of the notice of the hearing having been filed with the Court [Docket No. 413]; and

WHEREAS, 286 Rider Ave Development LLC, Toby Moskovits, and Yechial Michael Lichtenstein having filed an objection to the Time Records ("Development Objection") [Docket No. 428]; and

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<sup>1</sup> As defined in *Be-Aviv 286 Rider LLC's Supplement in Support of Lender's Time and Expense Records that Lender Submitted as Directed by the Court in the Second Amendment to Order Regarding Development's Motion to Confirm Disputed Payoff Amounts, Satisfaction of the DIP Loan, and for Related Relief and Supplement to Same, Dated March 3, 2022* [Docket No. 381].

WHEREAS, hearings (“**Hearings**”) were held on April 4, 2022 and April 25, 2022; and Lender, through its counsel, Morrison Cohen LLP (“**MC**”), having appeared in support of the Time Records; and such other parties whose identities are reflected in the record of the Hearings having appeared and been heard with respect thereto; and

WHEREAS, Lender received a payment on January 9, 2022 (“**January Payment**”); and

WHEREAS, Lender was awarded aggregate fees and expenses of \$1,214,458.91 by order dated April 7, 2022 (“**First MC Fee Order**”) [Docket No. 402], as reflected on the schedule thereto; and

WHEREAS, the First MC Fee Order provided that \$1,073,156.63 of the January Payment was available to satisfy Lender’s allowed amounts under the First MC Fee Order, resulting in a balance owing of \$141,302.28, which the Court allowed as a secured claim held by Lender against the collateral set out in the Loan Documents (“**First Fee Order Remaining Balance**”); and

WHEREAS, the Court entered an order on April 7, 2022 addressing various fee and expense issues and dismissing the case (“**Dismissal Order**”) [Docket No. 403], including a reference to First Fee Order Remaining Balance; and

WHEREAS, the Dismissal Order provides that Development shall escrow \$500,000.00 to satisfy the First Fee Order Remaining Balance and as a source of payment for MC’s allowed fees and expenses for the period of February 11, 2022 through April 5, 2022 (“**Second Fee Period**”) addressed in this order; and

WHEREAS, Lender received a wire payment of \$500,000.00 on April 12, 2022 (“April Payment”); and

WHEREAS, the Court having duly considered the arguments of counsel as reflected in the record of the Hearings, and due and sufficient cause appearing therefor, it is hereby

ORDERED, that the above-stated recitals are fully incorporated into this order, and it is further

ORDERED, that the Development Objection, and all objections whether written or raised orally at the Hearings, to the Time Records are overruled; and it is further

ORDERED, that fees and expenses of MC as Lender’s counsel for the Second Fee Period are hereby allowed as reasonable in the aggregate amount of \$536,172.18, and comprise Lender’s allowed secured claim against the Debtor’s property under section 506(b) of the Bankruptcy Code to the extent set forth in **Schedule A** attached hereto (“**Lender’s April 5 Secured Claim**”); and it is further

ORDERED, that \$358,697.72 of the April Payment (after applying the April Payment to the First Fee Order Remaining Balance) is available to satisfy Lender’s April 5 Secured Claim. The unpaid balance of the Lender’s April 5 Secured Claim, after such application, is an allowed secured claim in the amount of \$177,474.46 against the Debtor’s property; and it is further

ORDERED, that entry of this Order is without prejudice to Lender seeking allowance of an additional claim for legal fees and expenses incurred after April 5, 2022; and it is further

ORDERED, that notwithstanding any rule to the contrary, this order shall take effect immediately upon entry; and it is further

ORDERED, that the Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, and enforcement of this order.

DATED: New York, New York

April 26<sup>th</sup>, 2022

/s/ Lisa G. Beckerman

HON. LISA G. BECKERMAN

UNITED STATES BANKRUPTCY JUDGE

**Schedule A**

**286 Rider Ave Acquisition LLC, Case No 21-11298**

**Fees and Expenses of Be-Aviv 286 Rider LLC**

<b>Period</b>	<b>Fees Requested</b>	<b>Fees Allowed As Reasonable</b>	<b>Expenses Requested</b>	<b>Expenses Allowed As Reasonable</b>	<b>TOTAL ALLOWED SECURED CLAIM FOR LEGAL FEES AND EXPENSES</b>
<b>February 11, 2022 through April 5, 2022</b>	\$576,584.50	\$529,794.50	\$6,530.68	\$6,377.68	\$536,172.18
<b>TOTALS</b>	<b>\$576,584.50</b>	<b>\$529,794.50</b>	<b>\$6,530.68</b>	<b>\$6,377.68</b>	<b>\$536,172.18</b>

April 26, 2022 LGB